

FILED 10 JUL 12 9:58AM DCORM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PHYLL MENDACINO,

Petitioner, Civ. No. 08-485-CL

v. **OPINION AND ORDER**

MARK NOOTH,

Respondent.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Petitioner has filed objections [#33], and I have reviewed the file of this case *de novo*. 28 U.S.C. § 636(b)(1)(c); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). I conclude the R and R is correct.

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CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#31) is adopted. The petition (#1) is denied and this action is dismissed. Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED. See 28 U.S.C. § 2253(2).

IT IS SO ORDERED.

DATED this 12 day of July, 2010.



OWEN M. PANNER
U.S. DISTRICT JUDGE